IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

MACA.No. 64 of 2003()

OPMV.385/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PARAVUR
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APPELLANT/PETITIONER:

GIRIJA K.K., W/O. RAMAKRISHNAN,
KANDAMKULATHU HOUSE, KOCHANGADI, VADAKKUMPURAM,
CHENDAMANGALAM, N.PARAVUR.

BY ADV. SRI.G.BALAMURALEEDHARAN (PARAVUR)
SRI.MATHEWS V.JACOB (PARAVUR)
SRI.N.T.NANDAKUMAR (PARAVUR)

RESPONDENTS: RESPONDENTS:
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1. **A.VENKITAKRISHNAN, M/S.SRI.JAYANTHI SERVICES, VAZHAYIL VILLA, MANJAKKAL, MAHI.**

2. **JOSHI MATHEW, S/O. MATHEW KALLAMONKUNNEL HOUSE, PAYAM, P.O.IRITTY, KANNUR DISTRICT.**

3. **ORIENTAL INSURANCE CO.LTD., BRANCH OFFICE: S.V.COMPLEX, 2ND FLOOR, P.B.NO.125, EASWARANKOIL DIST, PONDICHERRY-605001.**

BY ADV. SRI.ANCHAL C.VIJAYAN

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 13/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

tss

J.B. KOSHY & K.HEMA, JJ.

M.A.C.A.No. 64 of 2003

Dated this the 13th day of September, 2007

Judgment

Koshy,J.

The appellant/claimant sustained serious injuries while she was travelling in a bus driven by the second respondent. She claimed a compensation of Rs.One lakh. Only Rs.45,500/- was awarded as compensation, though tribunal found that the accident occurred due to the negligence of the driver of the bus and the bus was insured by the third respondent insurance company. As a result of the accident, claimant had lacerated wound on the forehead, lacerated wound on the left side of upper lip and fracture of both bones of the left lower limb. Ext.A5 certificate shows that as a result of the fracture of both bones of the left lower limb, she had 14% permanent disability. Since the doctor was not examined for proving the same, the tribunal did not rely on the same, but, awarded only Rs.5,000/- for disability and

loss of earning power. According to the claimant, she was a tailor by profession and even if that is not proved, service of a house wife to the family also cannot be considered as valueless. The tribunal has fixed Rs.1,500/- as the notional income. It is not disputed that the appellant had fracture of both fibula and tibia of left leg. It will have swelling etc. Even though 14% disability certified need not be accepted, the Tribunal would have at least fixed 7% disability. Since the claimant was aged 31, 16 can be taken as the multiplier and compensation can be fixed as Rs.1500 x 12 x 16 x $\frac{7}{100}$ = Rs.20,160/-. After deducting Rs.5,000/- granted by the tribunal additional compensation payable will be Rs.15,160/-. Even though it was argued that the compensation granted under other heads are very meagre, we are not inclined to enhance the same considering the injuries suffered by the claimant. The above additional amount of Rs.15,160/- shall be deposited by the third respondent insurance company with 7.5% interest from the

date of application till its deposit. On deposit of the amount, appellant is allowed to withdraw the same.

J.B.KOSHY
JUDGE

K. HEMA
JUDGE

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.A.C.A.NO. 64 OF 2003

Judgment

Dated:13th September, 2007